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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,185	12/29/2000	Larry R. Fairbanks	CPS1540-203B	8520
8698	7590	06/04/2004	EXAMINER	
STANDLEY LAW GROUP LLP 495 METRO PLACE SOUTH SUITE 210 DUBLIN, OH 43017			YIP, WINNIE S	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/751,185

Applicant(s)

FAIRBANKS ET AL.

Examiner

Winnie Yip

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This office action is in response to applicant's amendment filed on March 4, 2004 which is a Request For Continued Examination application (RCE) of earlier application.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

1. The proposed drawings correction filed March 08, 2004 is disapproved because of it is not clear what is the dot-lines 90 indicated. Further, the newly proposed Figure 4 is objected to under 37 CFR 1.84(n) because it fails to provide any cross-hatching of element to show the proper material, a foam, of the reinforcement panel. The graphic drawing symbol and other labeled representations should be used appropriately for indicating a proper material of the element to be made. See MPEP 608.02. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manning et al. (US Patent No. 6,321,500).

Manning et al. show and disclose, in Fig. 5, a vinyl siding panel comprising a facing panel (10) having a plurality of elongated planar portions (30) including a first planar portion (30a), a second planar portion (30b), and a third planar portion (30c), the facing panel having an upper edge having a nailing strip (32) and a tongue (34), and a lower edge having a groove (36) for snap-receiving the tongue (34) of adjacent panel in the installation, each planar portion

Art Unit: 3637

(30) having a width extending between a first edge (a) and a second edge (b) of the planar portion, said plurality of elongate planar portions (30a, 30b, 30c) being edge-by-edge connected each other by a seam (c) with a height to define a stepped contour between the adjacent planar surfaces, wherein each planar portion (30) has an average thickness in a range about 30 mils and 45 mils (0.03 -0.45 inches) (see col. 2, lines 35-36) and a width about 4 inches (see col. 3, line 5), each planar portion has a curved surface with a surface variance and a radius curvature, wherein the surface variance is defined from the outer surface of the planar portion to an imaginary straight line (d) connected between the first and second edges of the planar portion, and a reinforcement panel (20) made of a foam material being adhesively secured to the planar surfaces. Although Manning et al. do not define the seam having specific height and the planar surface having specific surface variance/radius curvature as claimed, Manning et al. discloses the planar surfaces having same specific width and thickness as claimed, the height of the siding panel is least 16 inches so the height of the seam appears to have at least about 0.5 inches, and having a curved surfaces with surface variance/radius curvature as similar as claimed.

Therefore, one of ordinary skill in the art would have expected applicant's invention, the siding panel, to perform equally well with the specific height of seams between the planar surfaces and having curved surface with specific surface variance/radius curvature of the planar surface as claimed because those specific dimensions achieve the same function of providing the siding panel with sufficient strengthen and rigidity as needed. Since applicant has not disclosed that the siding panel having such specific dimensions that provides an advantage, is used for a particular purpose, or solves a stated problem, it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the vinyl siding panel of Manning et al.

Art Unit: 3637

having the seam between the planar surface having specific dimensions in height and the curved planar surface having specific surface variance/radius curvature as claimed as an obvious matter of design choice to provide the siding panel with sufficient strength and rigidity to achieve desirable impact resistance to accommodate the user's preference and various building structures requirements.

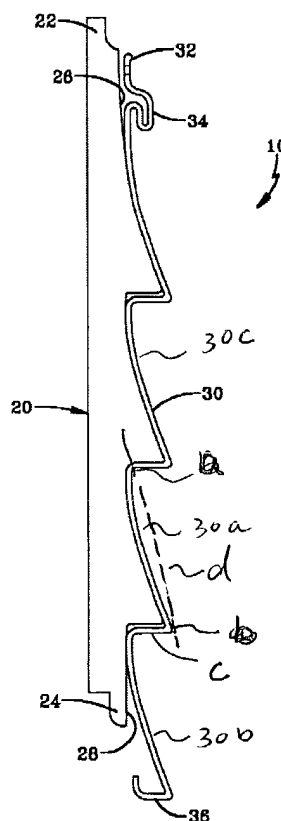


FIG-5

3. Claims 1, 4-14, 17-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnstone et al. '008 in view of Section 07460 on Siding of the Sweet's General Building & Renovation 1995 Catalog (referred to hereafter as the Sweet Catalog).

Johnstone et al. show and disclose, in Fig. 2, a vinyl siding panel comprising a plurality of rows including a first planar portion (46) and a second planar portion (46), the siding panel having an upper edge (adjacent the bend 36) having a nailing strip (20) and a tongue (14), and a lower edge having a groove (between bends 44 and 54) for snap-receiving the tongue of adjacent panel in the installation, wherein each planar portion (46) inherently has a width extending between a first edge (52 or 42) to a second edge (40 or 44) of the planar portion, each planar portion (46) has a gently curved surface with a suitable surface variance and a radius curvature, wherein the surface variance is defined from the outer surface of the planar portion to a imaginary straight line connected between the first and second edge of the planar portion (see Fig. 2, the distance between two narrows), and the second planar portion (near the edge 44) having a first edge (42) connected to the second edge (40) of the first planar portion by a seam to define a stepped contour between the two planar portions (46). Johnstone et al. do not define the siding panel having up to three planar surfaces. Johnstone et al. also fail to specifically define each planar surface having a specific surface variance/radius curvature of less than 0.05 inches between the first and second edges of the planar portions, and the specific dimension of the planar surface including the width of 4 inches or the thickness in a range of 0.04-0.05 inches, and the height of the seam between the planar surfaces being about 0.5 inches as claimed. However, the Sweet Catalog teaches various vinyl siding products ranging from one or two planar portions (Castle Ridge on pages 10) and three planar portions (Chatham Ridge on page 11), the vinyl siding product having a width of the planar surface about 3-5 inches, the normal thickness of the planar surface in the range of 0.04-0.05 inches (see the listing of the products specifications on page 20 of the Sweet Catalog, and Restoration Portfolio HP on page 7), and the

Art Unit: 3637

height of the seam about 0.5 inches (see the far right box on product Chatham Ridge on page 11).

It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the vinyl siding panel of Johnstone et al. to be a single lap, double lap and triple lap singles and having the specific dimensions in the width, the thickness and the height of seams between the laps and to achieve the specific surface variance/radius curvatures as claimed as taught by Sweet Catalog as an obvious matter of design choice to accommodate the user's preference, various building structures requirements, and to achieve a desired appearance since applicant has not disclosed that the siding panel having specific dimensions that provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention, the siding panel, to perform equally well with the specific width and thickness as taught by Sweet Catalog as claimed because those specific dimensions perform the same function of providing the siding with sufficient strength to achieve suitable impact resistance as desired.

Response to Argument

4. Applicant's arguments filed March 8, 2004 with respect to the objections to the drawing and specification have been fully considered but they are deemed persuasive and the objections to the specification and drawings are withdrawn.

5. Applicant's arguments, filed March 8, 2004, with respect to the rejections of claims 1-26 under 35 U.S.C. 103(a) have been fully considered and are not persuasive.

In response to applicant's argument that Johnstone et al. and the Sweet Catalog fail to teach and suggest the specific surface variances or radius curvatures as claimed, the examiner recognizes

Art Unit: 3637

that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, applicant first states that either of Johnstone et al. or the Sweet Catalog does not disclose the vinyl siding panel having specific dimension of surface variances or radius curvatures as claimed. We agree that this is so, otherwise our rejection would have been entered under section 102 of the statute. Applicant further mentions the dimensional limitations of each independent claim. While we acknowledge that the claims have these limitations, these limitations are not seen to distinguish over the combined teachings of Johnstone et al. and Sweet Catalog. The prior art both disclose an elongate siding panel having a plurality of elongated planar surfaces connected by seams. Johnstone et al. further discloses a siding panel having a same structural limitation with a gently curved planar surface (46) with surface variance or radius curvature. Sweet Catalog is used as a reference to teach a siding panel can be formed in various sizes with common dimensions of planar surfaces in width, thickness, and total height of panel as claimed. Since applicant does not disclose a vinyl siding panel having such specific dimensions solve any specific problem, as to accommodate the width, the thickness, and the length of the planar surface, the curved panel of Johnstone et al. would be perform equal well the optimum value of surface variance or radius curvature as claimed. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well to vary the dimensions of the surface variance or the radius curvature of the elongate curved planar surface of the references as claimed because it

has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Winnie Yip
Primary Examiner
Art Unit 3637

wsy
May 27, 2004